

108TH CONGRESS
2D SESSION

H. R. 3715

To facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 21, 2004

Ms. DELAURO (for herself, Mr. FROST, and Mr. OWENS) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Infrastruc-
5 ture Development Act of 2004”.

1 **SEC. 2. FINDINGS.**

2 Congress hereby finds the following:

3 (1) According to the American Society of Civil
4 Engineers, the condition of our nation's roads,
5 bridges, drinking water systems, and other public
6 works are facing a shortfall of \$1,600,000,000,000
7 investment to bring conditions to acceptable levels.

8 (2) Highway vehicle miles traveled increased
9 600,000,000,000 over the past decade from
10 2,150,000,000,000 to 2,750,000,000,000. According
11 to the American Association of State Highway and
12 Transportation Officials, highway vehicle miles trav-
13 eled is expected to grow by another 600,000,000,000
14 over the next 10 years, an annual highway vehicle
15 miles traveled growth rate of 2.2 percent.

16 (3) According to the American Public Transit
17 Association, public transportation ridership has in-
18 creased 22 percent since 1998—the highest level in
19 40 years.

20 (4) Airport capacity had increased only 1 per-
21 cent from 1991 to 2001, yet air traffic had in-
22 creased 35 percent during that same time period.

23 (5) As of 2000, 27.5 percent of the nation's
24 bridges (162,000 bridges) were structurally deficient
25 or functionally obsolete.

1 (6) According to recent estimates by the Envi-
2 ronmental Protection Agency, as much as
3 \$390,000,000,000 will be needed over the next 2
4 decades to rebuild, repair, and upgrade the Nation's
5 wastewater treatment plants.

6 (7) According to the Federal Highway Adminis-
7 tration's "2003 Conditions and Performance Re-
8 port", traffic congestion costs the economy
9 \$67,500,000,000 annually in lost productivity and
10 wasted fuel.

11 (8) Every billion dollars of Federal highway in-
12 vestment generates 47,500 jobs; for every billion dol-
13 lars in transit investment, job generation is virtually
14 the same.

15 (9) 11.3 million Americans—one in 11—are
16 employed in transportation occupations.

17 (10) As expressed in Executive Order No.
18 12893 of January 26, 1994, which sets out guiding
19 principles for Federal infrastructure investments, a
20 well functioning infrastructure is vital to sustained
21 economic growth, to the quality of life of our com-
22 munities, and to the protection of our environment
23 and natural resources.

24 (11) Although grant programs of the Federal
25 Government must continue to play a central role in

1 financing the infrastructure needs of the Nation,
2 current and foreseeable demands on existing Fed-
3 eral, State, and local funding for infrastructure ex-
4 pansion and replacement exceed the resources to
5 support these programs by margins wide enough to
6 prompt serious concerns about the Nation's ability
7 to sustain long-term economic development, produc-
8 tivity, and international competitiveness.

9 (12) The private capital markets, including the
10 trillions in capital held by institutional investors,
11 such as pension funds, have a growing interest in
12 public-private infrastructure investment opportuni-
13 ties that can produce competitive risk-adjusted rates
14 of return.

15 **SEC. 3. PURPOSES.**

16 The purposes of this Act are as follows:

17 (1) To establish the National Infrastructure
18 Development Corporation for the purpose of making
19 new sources of financing available for the develop-
20 ment of infrastructure facilities, and to facilitate the
21 use and issuance of public benefit bonds.

22 (2) To establish a subsidiary of the Corpora-
23 tion, the National Infrastructure Insurance Corpora-
24 tion, to issue insurance, reinsurance and related un-
25 dertakings in respect of the issuance of obligations

1 related to the development of infrastructure facili-
2 ties.

3 (3) To establish a category of financial instru-
4 ment to be known as “public benefit bonds” de-
5 signed to help facilitate pension plan investment in
6 the development of infrastructure facilities.

7 **SEC. 4. DEFINITIONS.**

8 The following definitions shall apply for purposes of
9 this Act unless the context requires otherwise:

10 (1) CORPORATION.—The term “Corporation”
11 means the National Infrastructure Development
12 Corporation established under section 5(a).

13 (2) DEVELOPMENT.—The terms “development”
14 and “develop” mean, with respect to an infrastruc-
15 ture facility, any—

16 (A) preconstruction planning, feasibility re-
17 view, permitting and design work and other
18 preconstruction activities;

19 (B) construction, reconstruction, rehabili-
20 tation, replacement, or expansion; and

21 (C) operation and maintenance.

22 (3) ENTITY.—The term “entity” means an in-
23 dividual, corporation, partnership, joint venture,
24 trust or governmental entity or instrumentality.

1 (4) INFRASTRUCTURE FACILITY.—The term
2 “infrastructure facility” means a road, highway,
3 bridge, tunnel, airport, mass transportation vehicle
4 or system, passenger or freight rail vehicle or sys-
5 tem, intermodal transportation facility, waterway,
6 commercial port, drinking or waste water treatment
7 facility, solid waste disposal facility, pollution control
8 system, hazardous waste facility, federally des-
9 ignated national information highway facility, school,
10 and any ancillary facility which forms a part of any
11 such facility or is reasonably related to such facility,
12 whether owned, leased or operated by a public entity
13 or a private entity or by a combination of such enti-
14 ties, and the financing or refinancing of the develop-
15 ment of which is, or will be, supported in whole or
16 in part by user fees or other dedicated revenue
17 sources.

18 (5) INSURANCE CORPORATION.—The term “In-
19 surance Corporation” means the National Infra-
20 structure Insurance Corporation established pursu-
21 ant to section 5(b).

22 (6) NIC.—The term “NIC” means the Cor-
23 poration and all subsidiaries of the Corporation.

24 (7) PENSION PLAN.—The term “pension plan”
25 means a pension plan as defined in section 3(2) of

1 the Employee Retirement Income Security Act of
2 1974 (29 U.S.C. 1001 et seq.), including any public
3 pension plan.

4 (8) PUBLIC BENEFIT BOND.—The term “public
5 benefit bond” means a bond or other indebtedness
6 meeting the requirements of section 72(w) of the In-
7 ternal Revenue Code of 1986.

8 (9) PUBLIC-PRIVATE PARTNERSHIP.—The term
9 “public-private partnership” means any entity—

10 (A) which is undertaking the development
11 of all or part of any infrastructure facility—

12 (i) pursuant to requirements estab-
13 lished in 1 or more contracts between such
14 entity and a State or an instrumentality of
15 a State; or

16 (ii) the activities of which with respect
17 to such facility are subject to regulation by
18 a State or any instrumentality of a State;
19 and

20 (B) which owns, leases, or operates, or will
21 own, lease, or operate, such infrastructure facil-
22 ity in whole or in part, and at least 1 of the
23 participants in such entity is a nongovern-
24 mental entity.

1 (10) REVOLVING FUND.—The term “revolving
2 fund” means a fund or program established by a
3 State or a political subdivision or instrumentality of
4 a State, the principal activity of which is to make
5 loans, commitments, or other financial accommoda-
6 tion available for the development of 1 or more cat-
7 egories of infrastructure facilities.

8 (11) SECRETARY.—The term “Secretary”
9 means the Secretary of the Treasury or the designee
10 of the Secretary.

11 (12) STATE.—The term “State” includes the
12 District of Columbia, Puerto Rico, Guam, American
13 Samoa, the Trust Territories of the Pacific Islands,
14 the Virgin Islands, the Northern Mariana Islands,
15 and any territory of the United States.

16 (13) TRANSITION DATE.—The term “transition
17 date” means the date on which the voting common
18 stock of the Corporation owned by the Secretary is
19 fully repurchased or converted in accordance with
20 section 13 and the transition of the Corporation to
21 a government-sponsored enterprise in accordance
22 with such section is completed.

23 **SEC. 5. ESTABLISHMENT OF NIC.**

24 (a) ESTABLISHMENT OF NATIONAL INFRASTRUC-
25 TURE DEVELOPMENT CORPORATION.—The National In-

1 frastructure Development Corporation is hereby estab-
2 lished as a wholly owned Government corporation subject
3 to chapter 91 of title 31, United States Code (commonly
4 referred to as the “Government Corporation Control
5 Act”), except as otherwise provided in this Act.

6 (b) ESTABLISHMENT OF NATIONAL INFRASTRUC-
7 TURE INSURANCE CORPORATION.—The National Infra-
8 structure Insurance Corporation is hereby established as
9 a subsidiary of the Corporation and as a wholly owned
10 Government corporation subject to chapter 91 of title 31,
11 United States Code, except as otherwise provided in this
12 Act.

13 (c) SELF-SUPPORTING ENTITIES.—The Corporation
14 and the Insurance Corporation shall each conduct their
15 respective businesses as self-supporting entities.

16 **SEC. 6. CORPORATION’S POWERS AND LIMITATIONS.**

17 (a) GENERAL POWERS.—In order to carry out the
18 purposes of the Corporation as set forth in this Act, the
19 Corporation shall have the following powers:

20 (1) To make senior and subordinated loans and
21 purchase senior and subordinated debt securities
22 (both taxable and tax exempt) and equity securities,
23 and enter into a binding commitment to make any
24 such loan or purchase any such security, on such
25 terms as the Corporation may determine, in the Cor-

1 poration's discretion, to be appropriate, the proceeds
2 of which are to be used to finance or refinance the
3 development of 1 or more infrastructure facilities,
4 and subject to the provisions of paragraph (8) of
5 subsection (b), provide preconstruction phase assist-
6 ance in accordance with section 8(f).

7 (2) To issue and sell debt securities and voting
8 and nonvoting equity securities of the Corporation
9 on such terms as the board of directors of the Cor-
10 poration may determine, subject to the provisions of
11 paragraphs (2), (3), and (4) of subsection (b), to be
12 appropriate and to pay such dividends on any out-
13 standing stock as the board of directors shall deter-
14 mine from time to time.

15 (3) To make the determinations with respect to
16 public benefit bonds pursuant to section 72(w) of
17 the Internal Revenue Code of 1986.

18 (4) To make agreements and contracts with any
19 entity in furtherance of the business of the Corpora-
20 tion.

21 (5) To make use of the services, facilities, and
22 property of any Federal agency or instrumentality,
23 with the approval of such agency or instrumentality
24 and on a reimbursable basis, in carrying out the
25 purposes of this Act.

1 (6) To acquire, lease, pledge, exchange, and dis-
2 pose of real and personal property and otherwise ex-
3 ercise all the usual incidents of ownership of prop-
4 erty to the extent the exercise of such powers are ap-
5 propriate to and consistent with the purposes of the
6 Corporation.

7 (7) To sue and be sued in the Corporation's
8 corporate capacity in any court of competent juris-
9 diction, except that no attachment, injunction, or
10 similar process, mesne or final, may be issued
11 against the property of the Corporation or against
12 the Corporation with respect to such property.

13 (8) To indemnify the directors and officers of
14 the Corporation for liabilities arising out of the ac-
15 tions of the directors and officers in such capacity,
16 in accordance with, and subject to the limitations
17 contained in, the bylaws of the Corporation.

18 (9) To exercise all other lawful powers which
19 are necessary or appropriate to carry out, and are
20 consistent with, the purposes of the Corporation, in-
21 cluding the powers conferred upon a corporation by
22 the District of Columbia Business Corporation Act.

23 (b) LIMITATIONS ON THE CORPORATION.—

24 (1) ACTIONS CONSISTENT WITH SELF-SUP-
25 PORTING ENTITY STATUS.—The Corporation shall

1 conduct its business in a manner consistent with the
2 requirement of section 5(c).

3 (2) CONDITION ON DEBT ISSUANCE.—The Cor-
4 poration shall not issue any debt security under sub-
5 section (a)(2) unless, at the time of the issuance
6 thereof, such security is rated by a nationally recog-
7 nized statistical rating organization at 1 of the 3
8 highest ratings of such organization.

9 (3) LIMITATION AND CONDITION ON ISSUANCE
10 OF DEBT AND NONVOTING EQUITY SECURITIES.—

11 (A) IN GENERAL.—Before the transition
12 date, the Corporation shall not issue any debt
13 security or nonvoting equity security under sub-
14 section (a)(2) without the prior consent of the
15 Secretary.

16 (B) APPROVAL OF SECRETARY FOR DEBT
17 SECURITY AFTER TRANSITION DATE.—On and
18 after the transition date, the Corporation shall
19 not issue any debt security under subsection
20 (a)(2) without the prior consent of the Sec-
21 retary.

22 (4) CONDITION ON VOTING EQUITY
23 ISSUANCE.—Before the transition date, the Corpora-
24 tion shall not issue any voting security to any entity
25 other than the Secretary, and, on and after the tran-

sition date, the issuance of any such security shall be subject to the provisions of section 13.

(5) SALE OF VOTING SECURITIES OF THE INSURANCE CORPORATION.—Before the transition date, voting securities of the Insurance Corporation purchased by the Corporation may not be sold or otherwise transferred by the Corporation.

(6) INVESTMENTS CONSISTENT WITH PURPOSES OF CORPORATION.—In order to achieve the Corporation’s purpose of effectively leveraging limited Federal resources with other public and private sources of capital, the Corporation shall seek to maintain a significant proportion of the Corporation’s infrastructure investments in—

(A) subordinated securities; and

(B) securities issued with respect to infrastructure facilities developed by public-private partnerships.

(7) COORDINATION WITH STATE AND LOCAL REGULATORY AUTHORITY.—The provision of financial assistance by the Corporation pursuant to this Act shall not be construed as—

(A) limiting the right of any State or local authority to approve or regulate rates of return on private equity invested in a project; or

1 (B) otherwise superseding any State law or
2 regulation applicable to a project.

3 (8) LIMITATION ON PRECONSTRUCTION ASSIST-
4 ANCE.—The Corporation shall provide assistance in
5 connection with the development of any infrastruc-
6 ture facility during the facility’s preconstruction
7 phase only in accordance with section 8(f).

8 **SEC. 7. INSURANCE CORPORATION’S POWERS AND LIMITA-**
9 **TIONS.**

10 (a) GENERAL POWERS.—In order to carry out the
11 purposes of the Insurance Corporation as set forth in this
12 Act, the Insurance Corporation shall have the following
13 powers:

14 (1) To insure and reinsure bonds, debentures,
15 notes, debt instruments, loans, and any interest in
16 any such obligation or loan, the proceeds of which
17 are to be used to finance or refinance the develop-
18 ment of 1 or more infrastructure facilities.

19 (2) To insure leases of personal, real, or mixed
20 property with respect to infrastructure facilities.

21 (3) To issue letters of credit and undertake
22 such obligations and commitments as the Insurance
23 Corporation deems necessary to carry out the pur-
24 poses described in paragraphs (1) and (2).

1 (4) To issue and sell voting and nonvoting eq-
2 uity securities on such terms as the board of direc-
3 tors of the Insurance Corporation may determine,
4 subject to the provisions of paragraphs (5) and (6)
5 of subsection (b), to be appropriate and to pay divi-
6 dends on any outstanding stock as the board of di-
7 rectors of the Insurance Corporation shall determine
8 from time to time.

9 (5) To make agreements and contracts with any
10 entity in furtherance of the business of the Insur-
11 ance Corporation.

12 (6) To make use of the services, facilities, and
13 property of any Federal agency or instrumentality,
14 with the approval of such agency or instrumentality
15 and on a reimbursable basis, in carrying out the
16 purposes of this Act.

17 (7) To acquire, lease, pledge, exchange, and dis-
18 pose of real and personal property and otherwise ex-
19 ercise all the usual incidents of ownership of prop-
20 erty to the extent the exercise of such powers are ap-
21 propriate to and consistent with the purposes of the
22 Insurance Corporation.

23 (8) To sue and be sued in the Insurance Cor-
24 poration's corporate capacity in any court of com-
25 petent jurisdiction, except that no attachment, in-

1 junction, or similar process, mesne or final, may be
2 issued against the property of the Insurance Cor-
3 poration or against the Insurance Corporation with
4 respect to such property.

5 (9) To indemnify the directors and officers of
6 the Insurance Corporation for liabilities arising out
7 of the actions of the directors and officers in such
8 capacity, in accordance with, and subject to the limi-
9 tations contained in, the bylaws of the Insurance
10 Corporation.

11 (10) To exercise all other lawful powers which
12 are necessary or appropriate to carry out, and are
13 consistent with, the purposes of the Insurance Cor-
14 poration, including the powers conferred upon a cor-
15 poration by the District of Columbia Business Cor-
16 poration Act.

17 (b) LIMITATIONS ON THE INSURANCE CORPORA-
18 TION.—

19 (1) ACTIONS CONSISTENT WITH SELF-SUP-
20 PORTING ENTITY STATUS.—The Insurance Corpora-
21 tion shall conduct its business in a manner con-
22 sistent with the requirement of section 5(c).

23 (2) INSURANCE CORPORATION RATING RE-
24 QUIREMENT.—The Insurance Corporation shall not
25 issue any primary insurance or letter of credit with

1 respect to 1 or more infrastructure facilities unless,
2 at the time of such issuance, the Insurance Corpora-
3 tion's claims-paying ability is then rated by a nation-
4 ally recognized statistical rating organization at the
5 highest rating of such organization.

6 (3) LIMITATION ON REINSURANCE.—The Insur-
7 ance Corporation may write reinsurance in respect
8 of all or a portion of a primary insurance policy with
9 respect to 1 or more infrastructure facilities issued
10 by a bond insurer if the claims-paying ability of such
11 insurer is rated, at the time of issuance of such rein-
12 surance, by a nationally recognized statistical rating
13 organization at the highest rating of such organiza-
14 tion.

15 (4) LIMITATION ON INSURANCE AND OTHER AC-
16 TIVITIES.—The Insurance Corporation may issue
17 primary insurance or a letter of credit with respect
18 to 1 or more infrastructure facilities, except that not
19 less than 75 percent of the principal amount of all
20 obligations so insured or subject of a letter of credit
21 shall be obligations which are, or based on a pub-
22 lished or indicative rating would be, without such in-
23 surance or letter of credit, rated by a nationally rec-
24 ognized statistical rating organization in the fourth

1 or fifth rating categories of such organization (BBB
2 and BB; Baa and Ba, or their equivalents).

3 (5) PRIOR CONSENT OF SECRETARY.—Before
4 the transition date, the Insurance Corporation shall
5 not issue any nonvoting equity security under sub-
6 section (a)(4) without the prior consent of the Sec-
7 retary.

8 (6) CONDITION ON VOTING EQUITY
9 ISSUANCE.—Before the transition date, the Insur-
10 ance Corporation shall not issue any voting security
11 to any entity other than the Corporation.

12 (7) COORDINATION WITH STATE AND LOCAL
13 REGULATORY AUTHORITY.—The provision of finan-
14 cial assistance by the Insurance Corporation pursu-
15 ant to this Act shall not be construed as—

16 (A) limiting the right of any State or local
17 authority to approve or regulate rates of return
18 on private equity invested in a project; or

19 (B) otherwise superseding any State law or
20 regulation applicable to a project.

21 **SEC. 8. ELIGIBILITY CRITERIA FOR ASSISTANCE FROM THE**
22 **CORPORATION AND THE INSURANCE COR-**
23 **PORATION.**

24 (a) GENERAL.—No financial assistance shall be avail-
25 able under this Act from the Corporation or the Insurance

1 Corporation unless the applicant for such assistance has
 2 demonstrated to the satisfaction of the Corporation or the
 3 Insurance Corporation, as the case may be, that the
 4 project for which such assistance is being sought meets—

5 (1) the requirements of this Act; and

6 (2) any criteria established in accordance with
 7 this Act by the board of directors of the Corporation
 8 or the Insurance Corporation, as the case may be.

9 (b) ESTABLISHMENT OF PROJECT CRITERIA.—

10 (1) IN GENERAL.—Consistent with the require-
 11 ments of subsections (c) and (d), the boards of di-
 12 rectors of the Corporation and the Insurance Cor-
 13 poration shall each establish—

14 (A) criteria for determining eligibility for
 15 financial assistance under this Act;

16 (B) disclosure and application procedures
 17 to be followed by States, revolving funds, and
 18 other entities to nominate projects for assist-
 19 ance under this Act; and

20 (C) such other criteria as the board of di-
 21 rectors of the Corporation or the Insurance
 22 Corporation may consider to be appropriate for
 23 purposes of carrying out this Act.

24 (2) FACTORS TO BE TAKEN INTO ACCOUNT.—

25 The criteria established pursuant to paragraph

1 (1)(A) shall provide for the consideration of the fol-
2 lowing factors in considering eligibility for financial
3 assistance under this Act:

4 (A) The extent to which provision of assist-
5 ance by the Corporation or the Insurance Cor-
6 poration will further the objectives for infra-
7 structure investments established in Executive
8 Order No. 12893 of January 26, 1994, includ-
9 ing the stated objective of providing opportuni-
10 ties for “innovative public-private initiatives”.

11 (B) The means by which development of
12 the infrastructure facility under consideration is
13 being financed, including—

14 (i) the terms and conditions and fi-
15 nancial structure of the proposed financ-
16 ing;

17 (ii) the financial assumptions and pro-
18 jections on which the project is based; and

19 (iii) based on consideration of clauses
20 (i) and (ii), whether the infrastructure fa-
21 cility will have the capacity to be self-sup-
22 porting.

23 (C) The likelihood that the provision of as-
24 sistance by the Corporation or the Insurance
25 Corporation will cause such development to pro-

1 ceed more promptly and with lower costs for fi-
2 nancing to the public and private entities en-
3 gaged in developing such infrastructure facility
4 than would be the case without such assistance.

5 (D) The extent to which the provision of
6 assistance by the Corporation or the Insurance
7 Corporation maximizes the level of private in-
8 vestment in such infrastructure facility.

9 (3) LIMITATION ON CONDITIONS.—The Cor-
10 poration and the Insurance Corporation shall not
11 condition the approval of financial assistance for the
12 development of any infrastructure facility on a re-
13 quirement that a pension plan of a State or political
14 subdivision of a State make an investment in such
15 facility.

16 (c) SUBMISSION OF PROJECT PROPOSALS.—

17 (1) ACCEPTANCE OF PROPOSALS.—The Cor-
18 poration and the Insurance Corporation shall accept,
19 for consideration, project proposals relating to the
20 development of infrastructure facilities submitted by
21 a State, a revolving fund, or another entity, subject
22 to subsection (d), which meet the requirements of
23 subsection (b).

24 (2) LIST OF PROJECTS UNDER CONSIDERATION
25 FOR ASSISTANCE.—Project proposals accepted pur-

1 suant to paragraph (1) and approved in principle
2 shall be placed on a list of projects being considered
3 for financial assistance under this Act.

4 (3) ELIGIBILITY FOR PRECONSTRUCTION AS-
5 SISTANCE.—Projects on the list established pursuant
6 to paragraph (2) shall be eligible to apply for
7 preconstruction assistance in accordance with sub-
8 section (f).

9 (4) SUBSEQUENT APPROVALS.—Notwith-
10 standing the receipt of any preconstruction assist-
11 ance for any project, no additional financial assist-
12 ance under this Act for such project may be pro-
13 vided without the specific approval by the Corpora-
14 tion or the Insurance Corporation, as the case may
15 be, for such additional assistance.

16 (5) FEES.—A fee may be charged for the re-
17 view of any project proposal in such amount as may
18 be deemed appropriate by the Corporation or the In-
19 surance Corporation to cover the cost of such review.

20 (d) STATE ELIGIBILITY.—

21 (1) IN GENERAL.—After the end of the 3-year
22 period beginning on the date of the enactment of
23 this Act, no financial assistance may be provided by
24 the Corporation or the Insurance Corporation for
25 the development of any infrastructure facility pro-

1 posed for assistance by a State, or a revolving fund
2 in a State, unless such State has in place—

3 (A) an evaluation process which is certified
4 by the Secretary, in accordance with regulations
5 which the Secretary shall prescribe before the
6 end of the 6-month period beginning on such
7 date of enactment, as being designed to ascer-
8 tain the extent to which major work with re-
9 spect to infrastructure facilities within the
10 State can be financed by relying on any revenue
11 reasonably obtainable from such facilities and
12 other dedicated revenue sources; and

13 (B) a program which is certified by the
14 Secretary, in accordance with regulations which
15 the Secretary shall prescribe before the end of
16 such 6-month period, as being reasonably de-
17 signed to promote the objective set forth in Ex-
18 ecutive Order No. 12893 of January 26, 1994,
19 of affording the opportunity for innovative pub-
20 lic-private initiatives with respect to major
21 work, consistent with the public interest.

22 (2) ACTIVITIES WITH NONSTATE ENTITIES.—

23 After the end of the 3-year period beginning on the
24 date of the enactment of this Act, the Corporation
25 and the Insurance Corporation each may continue to

1 undertake activities with respect to projects within a
2 State relating to the development of infrastructure
3 facilities which have been submitted by entities other
4 than such State or a revolving fund in such State,
5 including municipalities, regional authorities, and
6 private-public partnerships, if the infrastructure fa-
7 cilities meet the criteria for assistance established
8 pursuant to subsection (b), and the State or States
9 in which such facility or facilities are to be located
10 have not met the conditions of subsection (d)(1).

11 (3) MAJOR WORK DEFINED.—For purposes of
12 paragraph (1), the term “major work” means the
13 construction of a new infrastructure facility, or the
14 reconstruction, rehabilitation, replacement, or expan-
15 sion of an existing infrastructure facility, involving
16 the expenditure of more than \$10,000,000.

17 (e) INITIAL TARGETING OF READY-TO-GO
18 PROJECTS.—During the 3-year period beginning on the
19 date of the enactment of this Act, the Corporation and
20 the Insurance Corporation shall each seek to provide as-
21 sistance to projects involving the development of infra-
22 structure facilities which—

23 (1) the Corporation or the Insurance Corpora-
24 tion, as the case may be, determines are ready to
25 move forward promptly; and

1 (2) meet all other requirements of this Act.

2 (f) DEVELOPMENT RISK INSURANCE.—

3 (1) IN GENERAL.—Any project on the list es-
4 tablished pursuant to subsection (c)(2) shall be eligi-
5 ble to apply to the Corporation for development risk
6 insurance in accordance with this subsection to in-
7 sure against the risk of loss that would result if a
8 project does not proceed within a specified time
9 frame as the result of the failure to secure relevant
10 permits or specified Federal, State, or local approv-
11 als.

12 (2) TERMS AND SCOPE OF COVERAGE.—Devel-
13 opment risk insurance provided under this sub-
14 section shall—

15 (A) contain such limitations, deductibles,
16 exclusions, and exceptions as the Corporation
17 shall establish; and

18 (B) apply only to developmental costs in-
19 curred after the date of the approval of the ap-
20 plication for such insurance.

21 (3) MAXIMUM ON INSURANCE OF
22 PRECONSTRUCTION RISK.—The Corporation shall
23 not insure more than 50 percent of the
24 preconstruction phase development risk of any
25 project, as determined by the Corporation.

1 (4) ADDITIONAL CONDITIONS.—The Corpora-
2 tion may impose such other conditions and require-
3 ments in connection with any insurance provided
4 under this subsection as the Corporation may deter-
5 mine to be appropriate, including requirements for
6 audits of costs and other matters.

7 (5) FEES FOR INSURANCE.—The Corporation
8 may charge such fees and obtain such other com-
9 pensation for providing insurance coverage under
10 this subsection as the Corporation, in the Corpora-
11 tion’s discretion, shall determine to be appropriate.

12 (6) MAXIMUM EXPOSURE OF CORPORATION.—
13 The total outstanding exposure of the Corporation
14 with respect to insurance provided under this sub-
15 section may not exceed the amount which is equal to
16 5 percent of the sum of the capital, surplus, and re-
17 tained earnings of the Corporation, as measured at
18 the time any such insurance is provided.

19 (g) DISCRETION OF CORPORATION AND INSURANCE
20 CORPORATION.—Consistent with other provisions of this
21 Act, any determination of the Corporation or the Insur-
22 ance Corporation to provide assistance to any project, and
23 the manner in which such assistance is provided, including
24 the terms, conditions, fees and charges in respect thereof,

1 shall be at the sole discretion of the Corporation or the
2 Insurance Corporation, as the case may be.

3 (h) INDEPENDENT INVESTMENT COMMITTEE.—Any
4 final decision to provide or not provide assistance under
5 this Act by the Corporation or the Insurance Corporation
6 with respect to any specific proposal shall be made by an
7 investment committee, of the respective corporation, which
8 shall be comprised of senior officers of the Corporation
9 and the Insurance Corporation, as the case may be, ap-
10 pointed to such committee by the respective board of direc-
11 tors, which committees shall not have any nonofficer direc-
12 tor members.

13 (i) STATE AND LOCAL PERMITS REQUIRED.—The
14 provision of assistance by the Corporation or the Insur-
15 ance Corporation in accordance with this section shall not
16 be deemed to relieve any recipient of assistance or the re-
17 lated project of any obligation to obtain required State and
18 local permits and approvals.

19 (j) ANNUAL REPORT.—A State, revolving fund, or
20 other entity receiving assistance from the Corporation or
21 the Insurance Corporation shall make annual reports to
22 the Corporation or the Insurance Corporation, as the case
23 may be, on the use of any such assistance, compliance with
24 the criteria set forth in this section, and a disclosure of
25 all entities with a development, ownership, or operational

1 interest in a project assisted or proposed to be assisted
 2 pursuant to this Act.

3 (k) COOPERATION.—While the Corporation and In-
 4 surance Corporation each has sole discretion, the Corpora-
 5 tion and Insurance Corporation shall cooperate with State,
 6 local, and regional officials.

7 **SEC. 9. CAPITALIZATION AND ORGANIZATION OF THE COR-**
 8 **PORATION AND THE INSURANCE CORPORA-**
 9 **TION.**

10 (a) CAPITALIZATION.—

11 (1) CAPITALIZATION OF THE CORPORATION.—

12 (A) VOTING COMMON STOCK.—Effective
 13 for any fiscal year only to such extent and in
 14 such amounts as are provided in advance in ap-
 15 propriation Acts, the Secretary shall subscribe
 16 for and purchase, in each of the 3 years fol-
 17 lowing the date of enactment of this Act, voting
 18 common stock of the Corporation having an ag-
 19 gregate purchase price in each year of
 20 \$3,000,000,000, except that no such purchase
 21 shall occur after the transition date.

22 (B) LIMITATION ON SALE OF SECURITIES
 23 BY SECRETARY.—Securities purchased by the
 24 Secretary may not be sold or otherwise trans-
 25 ferred by the Secretary unless such sale or

1 transfer is effected pursuant to section 13 or is
2 explicitly authorized by an Act of Congress.

3 (2) CAPITALIZATION OF THE INSURANCE COR-
4 PORATION.—

5 (A) IN GENERAL.—The Corporation may
6 subscribe for and purchase voting common
7 stock of the Insurance Corporation in such
8 amounts and at such times as the board of di-
9 rectors of the Corporation shall from time to
10 time consider appropriate.

11 (B) LIMITATION ON INVESTMENT BY COR-
12 PORATION.—Not more than 25 percent of the
13 capital, surplus, and retained earnings of the
14 Corporation may be invested by the Corporation
15 in the Insurance Corporation without the con-
16 sent of the Secretary, measured at the time of
17 any such investment.

18 (3) REPURCHASE OF OUTSTANDING OBLIGA-
19 TIONS.—The Corporation and the Insurance Cor-
20 poration may purchase in the open market any of
21 their respective outstanding obligations at any time
22 and at any price.

23 (b) PLACE OF BUSINESS AND GOVERNING LAW.—

24 (1) CORPORATION.—

1 (A) PRINCIPAL OFFICE.—The Corporation
2 shall maintain its principal office in the District
3 of Columbia, and shall be deemed, for purposes
4 of venue in civil actions, to be a resident of the
5 District of Columbia.

6 (B) APPLICABILITY OF DISTRICT OF CO-
7 LUMBIA BUSINESS CORPORATION ACT.—To the
8 extent not inconsistent with this Act, the Cor-
9 poration shall be subject to the District of Co-
10 lumbia Business Corporation Act.

11 (2) INSURANCE CORPORATION.—

12 (A) PLACE OF BUSINESS.—The Insurance
13 Corporation shall maintain its principal office
14 in the District of Columbia, and shall be
15 deemed, for purposes of venue in civil actions,
16 to be a resident thereof.

17 (B) APPLICABILITY OF DISTRICT OF CO-
18 LUMBIA BUSINESS CORPORATION ACT.—To the
19 extent not inconsistent with this Act, the Insur-
20 ance Corporation shall be subject to the District
21 of Columbia Business Corporation Act.

22 (3) APPLICABILITY OF STATE INSURANCE
23 LAWS.—Before the transition date, the Corporation
24 and the Insurance Corporation shall not be subject
25 to the provisions of the law of any State or political

1 subdivision of any State regulating the ownership or
2 conduct of an insurance or surety business in any
3 jurisdiction.

4 (4) EXEMPTION FROM TAXATION.—

5 (A) ON AND BEFORE TRANSITION DATE.—

6 On and before the transition date, the Corpora-
7 tion, the Insurance Corporation, and any other
8 subsidiary of the Corporation, including the
9 franchise, capital, reserves, surplus, securities
10 holdings, and income of the Corporation, the
11 Insurance Corporation, or any such subsidiary
12 shall be exempt from taxation now or hereafter
13 imposed by the United States, any State, or
14 any county, municipality, or local taxing au-
15 thority.

16 (B) AFTER TRANSITION DATE.—After the

17 transition date, the Corporation, the Insurance
18 Corporation, and any other subsidiary of the
19 Corporation, including the franchise, capital, re-
20 serves, surplus, securities holdings, and income
21 of the Corporation, the Insurance Corporation,
22 or any such subsidiary shall be exempt from all
23 taxation now or hereafter imposed by the
24 United States, any State, or any county, mu-
25 nicipality, or local taxing authority in any

1 State, provided that the Corporation, the Insur-
2 ance Corporation and any other subsidiary of
3 the Corporation shall be subject to Federal in-
4 come taxation.

5 **SEC. 10. MANAGEMENT OF THE CORPORATION.**

6 (a) BOARD OF DIRECTORS.—

7 (1) NUMBER AND APPOINTMENT.—Subject to
8 the provisions of section 13, the Corporation shall
9 have a board of directors consisting of 12 members,
10 9 of whom shall be appointed by the President.

11 (2) REQUIRED EXPERTISE.—The President
12 shall appoint individuals to the board of directors of
13 the Corporation with a demonstrated experience and
14 expertise in the general field of infrastructure
15 project development, finance, or related disciplines.

16 (3) ADDITIONAL SELECTION CRITERIA.—The
17 President shall ensure that, of the nonofficer direc-
18 tors appointed to the board of directors, a minimum
19 of 6 shall be selected from among representatives of
20 the private sector, of which—

21 (A) 2 shall be representatives of organized
22 labor; and

23 (B) 2 shall be individuals involved in the
24 field of public-private infrastructure finance and
25 related disciplines.

1 (4) CONSULTATION WITH THE NATIONAL GOV-
 2 ERNORS' CONFERENCE.—The President shall select
 3 2 of the nonofficer directors to be appointed to the
 4 board of directors after consulting with and consid-
 5 ering the recommendations of the National Gov-
 6 ernors' Conference.

7 (5) APPOINTMENT OF OFFICERS TO THE
 8 BOARD.—A majority of the nonofficer members of
 9 the board shall appoint the president of the Corpora-
 10 tion who shall serve on the board of directors. The
 11 president of the Corporation shall select 2 executive
 12 officers to be appointed to the board, subject to con-
 13 firmation by a majority of the board.

14 (6) TERMS.—

15 (A) PRESIDENTIAL APPOINTEES.—Each
 16 director appointed by the President shall be ap-
 17 pointed for a term of 4 years, except as pro-
 18 vided in subparagraph (B).

19 (B) INITIAL PRESIDENTIAL AP-
 20 POINTEES.—As designated by the President, of
 21 the directors first appointed by the President—

22 (i) $\frac{1}{3}$ shall be appointed for a term of
 23 2 years;

24 (ii) $\frac{1}{3}$ shall be appointed for a term
 25 of 3 years; and

1 (iii) $\frac{1}{3}$ shall be appointed for a term
2 of 4 years.

3 (C) OFFICER DIRECTORS.—Officer direc-
4 tors of the Corporation shall serve for a period
5 of 1 year or until they cease to be an officer of
6 the Corporation.

7 (D) INTERIM APPOINTMENTS.—Any direc-
8 tor appointed to fill a vacancy occurring before
9 the expiration of the term for which the direc-
10 tor's predecessor was appointed shall be ap-
11 pointed only for the remainder of that term.

12 (E) CONTINUATION OF SERVICE.—A direc-
13 tor may serve after the expiration of that direc-
14 tor's term until a successor has taken office.

15 (7) VACANCIES.—A vacancy in the board of di-
16 rectors shall be filled in the manner in which the
17 original appointment was made.

18 (8) REAPPOINTMENT.—

19 (A) PRESIDENTIAL APPOINTEES.—Mem-
20 bers of the board of directors appointed by the
21 President may be reappointed by the President,
22 consistent with the requirements of this section.

23 (B) OFFICER DIRECTORS.—The president
24 of the Corporation shall be reappointed to the
25 board by the nonofficer directors for so long as

1 such individual continues to serve as president
2 of the Corporation. Officer directors of the
3 board selected by the president of the Corpora-
4 tion may be reappointed by the president of the
5 Corporation, consistent with the requirements
6 of this section.

7 (9) REMOVAL.—

8 (A) PRESIDENTIAL APPOINTEES.—A direc-
9 tor appointed by the President shall be subject
10 to removal only for cause.

11 (B) OFFICER DIRECTORS.—Officer direc-
12 tors of the Corporation shall be subject to re-
13 moval from the board in the discretion of a ma-
14 jority of the board, except that the president of
15 the Corporation shall continue to serve on the
16 board for so long as he or she serves as presi-
17 dent of the Corporation.

18 (10) QUORUM.—7 directors shall constitute a
19 quorum.

20 (11) CHAIRPERSON.—The chairperson of the
21 board of directors shall be selected by a majority of
22 the board from among the nonofficer directors of the
23 board, and shall serve for a period of 1 year, or until
24 a new chairperson is selected.

1 (12) STATUS AND COMPENSATION OF BOARD
2 MEMBERS.—

3 (A) NONOFFICER DIRECTORS.—Members
4 of the board of directors who are not officers of
5 the Corporation shall serve on a part-time basis
6 and shall receive a per diem, when engaged in
7 the actual performance of Corporation business,
8 plus reasonable reimbursement for travel, sub-
9 sistence and other necessary expenses incurred
10 in the performance of their duties.

11 (B) OFFICER DIRECTORS.—Members of
12 the board of directors who are officers of the
13 Corporation shall not be entitled to receive any
14 salary or other compensation for services as a
15 director of the Corporation, but may receive
16 reasonable reimbursement for travel, subsist-
17 ence and other necessary expenses incurred in
18 the performance of their duties as directors of
19 the Corporation.

20 (13) CONFLICTS OF INTEREST.—

21 (A) IN GENERAL.—Nonofficer directors
22 shall have no responsibility for, and shall not
23 seek to influence, any decision of the inde-
24 pendent investment committee established pur-
25 suant to section 8(h).

1 (B) CONSULTATION.—Notwithstanding
2 subparagraph (A), the investment committee
3 may, in the committee’s discretion and on the
4 committee’s own initiative, consult with the
5 board of directors as the committee sees fit.

6 (C) LIMITATION ON CONSULTATION.—No
7 nonofficer director of the Corporation who has,
8 or is affiliated with a person who has, an inter-
9 est in any project under consideration for as-
10 sistance under this Act shall participate in any
11 consultation under subparagraph (B) with re-
12 spect to such project.

13 (14) MEETINGS.—The board of directors shall
14 meet at any time pursuant to the call of the chair-
15 person or a majority of the directors and as provided
16 by the bylaws of the Corporation, but not less than
17 once each calendar quarter.

18 (15) DUTIES.—In addition to any duties estab-
19 lished under this Act and the bylaws of the Corpora-
20 tion, the board of directors shall determine the gen-
21 eral policies which shall govern the operations of the
22 Corporation in accordance with this Act.

23 (16) DELEGATION OF AUTHORITY.—The board
24 of directors may delegate duties and powers of the

1 board to such committees of the board as the board
2 may determine to be appropriate.

3 (b) OFFICERS OF THE CORPORATION.—

4 (1) PRESIDENT OF THE CORPORATION.—The
5 president of the Corporation shall be the chief execu-
6 tive officer of the Corporation, with such executive
7 functions, powers, and duties as may be prescribed
8 by this Act, the bylaws, or the board of directors.

9 (2) APPOINTMENT OF OFFICERS.—The presi-
10 dent of the Corporation shall, with the approval of
11 a majority of the board, appoint qualified individuals
12 to such executive officer positions as may be pro-
13 vided for in the bylaws of the Corporation, and shall
14 define their duties. The president may appoint, re-
15 move, fix the compensation of, and define the duties
16 of other officers as provided in the bylaws.

17 (3) COMPENSATION.—The compensation of the
18 president and the executive officers of the Corpora-
19 tion shall be determined by the board of directors of
20 the Corporation, in the discretion of the board of di-
21 rectors.

22 (4) CONFLICTS OF INTEREST.—Officers of the
23 Corporation shall not participate in any review or
24 decision affecting a project under consideration for
25 assistance under this Act if such officer has, or is

1 affiliated with a person who has, an interest in such
2 project.

3 (5) REMOVAL.—Any executive officer of the
4 Corporation may be removed in the discretion of a
5 majority of the board of directors.

6 **SEC. 11. MANAGEMENT OF THE INSURANCE CORPORATION.**

7 (a) BOARD OF DIRECTORS.—

8 (1) NUMBER AND ELECTION.—Subject to the
9 provisions of section 13, the Insurance Corporation
10 shall have a board of directors consisting of 12
11 members elected by the stockholders of the Insur-
12 ance Corporation.

13 (2) INITIAL APPOINTMENT OF DIRECTORS.—
14 The initial directors of the Insurance Corporation
15 shall be appointed by the board of directors of the
16 Corporation.

17 (3) REQUIRED EXPERTISE.—The board shall be
18 comprised of individuals who have a demonstrated
19 expertise and experience in the field of credit en-
20 hancement or insurance and related disciplines, a
21 minimum of 9 of whom shall be selected from among
22 representatives of the private sector.

23 (4) TERMS.—

1 (A) IN GENERAL.—Each director shall be
 2 elected or appointed for a term of 2 years, ex-
 3 cept as provided in subparagraph (B).

4 (B) INTERIM APPOINTMENTS.—Any direc-
 5 tor elected or appointed to fill a vacancy occur-
 6 ring before the expiration of the term for which
 7 the director’s predecessor was appointed shall
 8 be elected or appointed only for the remainder
 9 of that term.

10 (C) CONTINUATION OF SERVICE.—A direc-
 11 tor may serve after the expiration of that direc-
 12 tor’s term until a successor has taken office.

13 (5) VACANCIES.—A vacancy in the board of di-
 14 rectors shall be filled in the manner in which the
 15 original appointment was made, except that the by-
 16 laws may provide for the appointment by the board
 17 of directors of a director to fill a vacancy occurring
 18 before the expiration of the term for which the direc-
 19 tor’s predecessor was elected or appointed.

20 (6) QUORUM.—7 directors shall constitute a
 21 quorum.

22 (7) CHAIRPERSON.—

23 (A) ELECTION.—The chairperson of the
 24 board of directors shall be elected by the board

1 of directors from among the directors on the
2 board.

3 (B) TERM.—The term of office of the
4 chairperson shall be 1 year or until a new chair-
5 person is elected.

6 (8) STATUS AND COMPENSATION OF BOARD
7 MEMBERS.—Members of the board of directors shall
8 serve on a part-time basis and shall receive a per
9 diem, when engaged in the actual performance of In-
10 surance Corporation business, plus reasonable reim-
11 bursement for travel, subsistence and other nec-
12 essary expenses incurred in the performance of their
13 duties.

14 (9) CONFLICTS OF INTEREST.—

15 (A) IN GENERAL.—Nonofficer directors
16 shall have no responsibility for, and shall not
17 seek to influence, any decision of the inde-
18 pendent investment committee established pur-
19 suant to section 8(h).

20 (B) CONSULTATION.—Notwithstanding
21 subparagraph (A), the investment committee
22 may, in the committee's discretion and on the
23 committee's own initiative, consult with the
24 board of directors as the committee sees fit.

1 (C) LIMITATION ON CONSULTATION.—No
2 director who has, or is affiliated with any per-
3 son who has, an interest in any project under
4 consideration for assistance under this Act shall
5 participate in any such consultation with re-
6 spect to such project.

7 (10) MEETINGS.—The board of directors shall
8 meet at any time pursuant to the call of the chair-
9 person or a majority of the directors and as provided
10 by the bylaws of the Insurance Corporation, but not
11 less than once each calendar quarter.

12 (11) DUTIES.—In addition to any duties estab-
13 lished under this Act or the bylaws of the Insurance
14 Corporation, the board of directors shall determine
15 the general policies which shall govern the oper-
16 ations of the Insurance Corporation in accordance
17 with this Act.

18 (12) DELEGATION OF AUTHORITY.—The board
19 of directors may delegate duties and powers of the
20 board to such committees of the board as the board
21 may determine to be appropriate.

22 (b) OFFICERS OF THE INSURANCE CORPORATION.—
23 (1) PRESIDENT OF THE INSURANCE CORPORA-
24 TION.—There shall be a position of president of the
25 Insurance Corporation who shall be the chief execu-

1 tive officer of the Insurance Corporation, with such
2 executive functions, powers, and duties as may be
3 prescribed by the bylaws or by the board of direc-
4 tors.

5 (2) APPOINTMENT OF OFFICERS.—The chair-
6 person of the board of directors of the Insurance
7 Corporation shall, with the approval of a majority of
8 the board, appoint a qualified individual to the posi-
9 tion of president of the Insurance Corporation. The
10 president of the Insurance Corporation shall, with
11 the approval of a majority of the board, appoint
12 qualified individuals to such executive officer posi-
13 tions as may be provided for in the bylaws of the In-
14 surance Corporation, and shall define their duties.
15 The president may appoint, remove, fix the com-
16 pensation of, and define the duties of other officers
17 as provided in the bylaws.

18 (3) COMPENSATION.—The compensation of the
19 president and the executive officers of the Insurance
20 Corporation shall be determined by the board of di-
21 rectors of the Insurance Corporation, in the discre-
22 tion of the board of directors.

23 (4) CONFLICTS OF INTEREST.—Officers of the
24 Insurance Corporation shall not participate in any
25 review or decision affecting a project under consider-

1 ation for assistance under this Act if such officer
2 has, or is affiliated with a person who has, an inter-
3 est in such project.

4 (5) REMOVAL.—Any executive officer of the In-
5 surance Corporation may be removed in the discre-
6 tion of a majority of the board of directors.

7 **SEC. 12. BOARD OF DIRECTOR MEETINGS OPEN TO PUBLIC.**

8 (a) GENERAL.—All meetings of the full board of di-
9 rectors held to conduct the business of the Corporation
10 or the Insurance Corporation shall be open to the public,
11 and shall be preceded by reasonable notice.

12 (b) CLOSED MEETINGS.—Pursuant to such rules as
13 the Corporation and the Insurance Corporation may es-
14 tablish through their bylaws, the respective board of direc-
15 tors may close a meeting of the board if at the meeting
16 there is likely to be disclosed information which could ad-
17 versely affect or lead to speculation relating to an infra-
18 structure project under consideration for assistance under
19 this Act, or in financial or securities or commodities mar-
20 kets or institutions, utilities, or real estate. The deter-
21 mination to close any meeting of either board of directors
22 shall be made in a meeting of such board, open to the
23 public, and preceded by reasonable notice. The respective
24 board of directors shall prepare minutes of any meeting
25 which is closed to the public and make such minutes avail-

1 able as soon as the considerations necessitating closing
2 such meeting no longer apply.

3 **SEC. 13. TRANSITION TO GOVERNMENT-SPONSORED EN-**
4 **TERPRISE.**

5 (a) GENERAL.—Within 5 years after the date of the
6 enactment of this Act, the Corporation shall prepare a
7 strategic plan for the transition of NIC to a government-
8 sponsored enterprise (as defined in section 3(8) of the
9 Congressional Budget and Impoundment Control Act of
10 1974 (2 U.S.C. 622(8)) and for the sale or transfer to
11 investors other than the Federal Government, as set forth
12 in subsection (b), of the voting securities of the Corpora-
13 tion. The Corporation shall revise such transition plan as
14 needed.

15 (b) PLAN; PENSION PLAN PARTICIPATION.—

16 (1) IN GENERAL.—The strategic plan shall in-
17 clude consideration of alternative means for effecting
18 such transition through a broad distribution to long-
19 term investors, including by a public offering of
20 stock or convertible stock or debt.

21 (2) PENSION PLAN PARTICIPATION.—The stra-
22 tegic plan shall include provisions that specify that
23 the initial purchasers of voting securities of the Cor-
24 poration or of nonvoting securities which are con-
25 vertible to such voting securities on the transition

1 date (disregarding any underwriters of such securi-
2 ties) shall be pension plans.

3 (c) MEANS OF TRANSFER.—

4 (1) IN GENERAL.—The strategic plan may call
5 for a phased transfer of ownership or for complete
6 transfer at a single point in time.

7 (2) RULES APPLICABLE IN THE CASE OF A
8 PHASED TRANSITION.—If the plan calls for phased
9 transfer of ownership—

10 (A) such transition shall be deemed to
11 occur when 100 percent of the voting securities
12 of the Corporation have been transferred to or
13 are held by investors other than the Federal
14 Government, and the investment of the Federal
15 Government in the Corporation has been repaid
16 or converted as provided in subsection (h);

17 (B) before the transition date, all equity
18 securities of the Corporation held by investors
19 other than the Federal Government (or any eq-
20 uity security into which any other security is
21 convertible) shall be nonvoting securities; and

22 (C) on and after the transition date, non-
23 voting equity securities of the Corporation held
24 by investors other than the Federal Government
25 (or into which other securities are convertible)

1 may, in accordance with the terms of such secu-
2 rities, be converted or become convertible into
3 voting securities.

4 (d) REQUIREMENT OF PRESIDENTIAL APPROVAL.—

5 The Corporation may not implement the transition plan
6 without the approval of the President, and shall seek re-
7 approval if the plan is materially altered.

8 (e) NOTIFICATION OF CONGRESS.—

9 (1) IN GENERAL.—The Corporation shall notify
10 the Congress of—

11 (A) the Corporation's intent to implement
12 the transition plan; and

13 (B) any material alteration of a transition
14 plan previously submitted to the Congress.

15 (2) REPORT.—Within 30 days of any notifica-
16 tion of the Congress under paragraph (1), the
17 Comptroller General of the United States shall sub-
18 mit a report to Congress evaluating the extent to
19 which—

20 (A) the transition plan (as then modified)
21 would result in ongoing obligations (other than
22 contemplated by subsection (h)) or undue cost
23 to the Federal Government; and

24 (B) the cash proceeds (or projected range
25 thereof) to be provided to the Federal Govern-

1 ment, or the securities proposed to be received
2 in exchange for the investment of the Federal
3 Government in the Corporation or portion
4 thereof, represents the full recoupment of such
5 investment (after taking into account any divi-
6 dends paid to the Federal Government).

7 (f) CONGRESSIONAL REVIEW.—The Corporation may
8 implement the plan not less than 60 days after notification
9 of the Congress, if the approval of the President referred
10 to in subsection (d) has been received.

11 (g) DEPOSIT OF PROCEEDS.—Any cash proceeds re-
12 ceivable by the Federal Government pursuant to this sec-
13 tion shall be deposited in the general fund of the Treasury.

14 (h) CONVERSION OF FEDERAL GOVERNMENT IN-
15 VESTMENT.—Upon the implementation of the transition
16 plan, the voting equity securities of the Corporation held
17 by the Federal Government or, in the case of a phased
18 transition, that portion of the voting equity securities
19 which are subject to such phase shall be repurchased by
20 the Corporation or converted to long-term subordinated
21 debt securities having a par amount not less than the
22 amounts appropriated pursuant to section 19 and subject
23 to such phase, or a combination thereof, as contemplated
24 by such plan.

25 (i) BOARD OF DIRECTORS.—

1 (1) CORPORATION.—

2 (A) INITIAL BOARD.—Before the end of
3 the 120-day period beginning on the transition
4 date, a special meeting of the stockholders of
5 the Corporation shall be held, at which all di-
6 rectors of the Corporation shall be elected to
7 serve a 1-year term or until any such director's
8 successor has been elected.

9 (B) NOMINATION; SELECTION CRITERIA.—
10 The candidates for election to the board of di-
11 rectors under paragraph (1) shall be nominated
12 by the existing board of directors and 4 of such
13 candidates shall be nominated in accordance
14 with the selection criteria set out in section
15 10(a)(3).

16 (C) SUBSEQUENT BOARDS.—After the 1st
17 election of a board of directors pursuant to sub-
18 paragraph (A), the directors shall be elected
19 and subject to removal by the stockholders of
20 the Corporation, as provided in the District of
21 Columbia Business Corporation Act, except that
22 the nomination of candidates for each election
23 of the board of directors shall continue to re-
24 flect the requirements of section 10(a)(3).

25 (2) INSURANCE CORPORATION.—

(A) INITIAL BOARD.—Promptly following the special meeting of the stockholders of the Corporation pursuant to paragraph (1), a special meeting of the stockholders of the Insurance Corporation shall be held, at which all directors or the Insurance Corporation shall be elected to serve a 1-year term or until any such director’s successor has been elected.

(B) SUBSEQUENT BOARDS.—After the 1st election of a board of directors pursuant to subparagraph (A), the directors shall be elected and subject to removal by the stockholders of the Insurance Corporation, as provided in the District of Columbia Business Corporation Act.

(j) TRANSMITTAL OF FINAL PLAN AFTER COMPLETION.—The Corporation shall transmit copies of the final strategic plan for transition to the President and the Congress upon completion of such transition.

SEC. 14. STATUS AND APPLICABILITY OF CERTAIN FEDERAL LAWS.

(a) BEFORE THE TRANSITION DATE.—Before the transition date, the Corporation, the Insurance Corporation, and any other subsidiary of the Corporation, shall—

(1) not be agencies of the United States; and

1 (2) comply with all Federal laws regulating the
2 budgetary and auditing practices of a government
3 corporation, except as otherwise provided in this Act.

4 (b) SUBSEQUENT TO THE TRANSITION DATE.—On
5 and after the transition date, the Corporation, the Insur-
6 ance Corporation, and any other subsidiary of the Cor-
7 poration shall not be considered to be an agency, instru-
8 mentality, or establishment of the United States Govern-
9 ment or a government corporation or a government-con-
10 trolled corporation, for purposes of any Federal law, ex-
11 cept as otherwise provided in this Act.

12 (c) AUTHORIZED INVESTMENTS AND SECURITY.—All
13 obligations issued by the Corporation shall be authorized
14 investments for any person created under the laws of the
15 United States or any State to the same extent that the
16 person may hold or invest in obligations issued by or guar-
17 anteed as to principal or interest by the United States or
18 any agency or instrumentality of the United States.

19 (d) EFFECT OF AND EXEMPTIONS FROM OTHER
20 LAWS.—

21 (1) EXEMPT SECURITIES.—All equity and debt
22 securities and other obligations issued by the Cor-
23 poration or the Insurance Corporation pursuant to
24 this Act shall be deemed to be exempt securities
25 within the meaning of laws administered by the Se-

1 securities and Exchange Commission to the same ex-
2 tent as securities which are direct obligations of, or
3 obligations fully guaranteed as to principal or inter-
4 est by, the United States.

5 (2) OPEN MARKET OPERATIONS AND STATE
6 TAX EXEMPT STATUS.—The obligations of the Cor-
7 poration shall be deemed to be obligations of the
8 United States for the purposes of the provision des-
9 ignated as (b)(2) of the 2nd undesignated paragraph
10 of section 14 of the Federal Reserve Act and section
11 3124 of title 31, United States Code.

12 (3) NO PRIORITY AS A FEDERAL CLAIM.—The
13 priority established in favor of the United States by
14 section 3713 of title 31, United States Code, shall
15 not apply with respect to any indebtedness of the
16 Corporation or the Insurance Corporation.

17 (e) FEDERAL RESERVE BANKS AS DEPOSITARIES,
18 CUSTODIANS, AND FISCAL AGENTS.—The Federal reserve
19 banks may act as depositaries for, or custodians or fiscal
20 agents of, the Corporation and the Insurance Corporation.

21 (f) ACCESS TO BOOK-ENTRY SYSTEM.—The Sec-
22 retary may authorize the Corporation and the Insurance
23 Corporation to use the book-entry system of the Federal
24 reserve system.

1 **SEC. 15. COMPLIANCE WITH DAVIS-BACON ACT.**

2 NIC shall take such action as may be necessary to
3 ensure that projects assisted in whole or in part under
4 the provisions of this Act shall incorporate a provision re-
5 quiring in any contract relating to any construction, recon-
6 struction, rehabilitation, replacement, or expansion of
7 such project, that not less than the wages prevailing in
8 the locality, as predetermined by the Secretary of Labor
9 pursuant to the Act of March 3, 1931, commonly referred
10 to as the “Davis-Bacon Act” (40 U.S.C. 276a), shall be
11 paid to all laborers and mechanics employed to perform
12 such contracts.

13 **SEC. 16. OBLIGATIONS NOT FEDERALLY GUARANTEED;**
14 **STATE LAWS.**

15 (a) STATUS OF SECURITIES.—

16 (1) NO FULL FAITH AND CREDIT OF THE
17 U.S.—Obligations of the Corporation or the Insur-
18 ance Corporation, and obligations insured by any
19 such corporation shall not be obligations of, or guar-
20 anteed as to principal or interest by, the United
21 States or any agency of the United States and the
22 obligations shall so plainly state.

23 (2) FINANCING NOT TREATED AS U.S. GUAR-
24 ANTEE.—The provision of assistance of any kind or
25 nature from NIC shall not be treated as a direct or
26 indirect guarantee of any payment of principal or in-

1 terest on any security by the United States for pur-
2 poses of section 149(b) of the Internal Revenue
3 Code of 1986 or any other law.

4 (b) STATE LAWS.—The receipt by any entity of any
5 assistance under this Act, directly or indirectly, and any
6 financial assistance provided by any governmental entity
7 in connection with such assistance under this Act shall be
8 valid and lawful notwithstanding any State or local restric-
9 tions regarding extensions of credit or other benefits to
10 private persons or entities, or other similar restrictions.

11 **SEC. 17. AUDITS; REPORTS TO THE PRESIDENT AND THE**
12 **CONGRESS.**

13 (a) ACCOUNTING.—The books of account of NIC
14 shall be maintained in accordance with generally accepted
15 accounting principles and shall be subject to an annual
16 audit by independent public accountants of nationally rec-
17 ognized standing.

18 (b) REPORTS.—NIC shall submit to the President
19 and the Congress, within 90 days after the end of each
20 fiscal year, a complete and detailed report with respect
21 to the preceding fiscal year, setting forth—

22 (1) a summary of NIC's operations, for such
23 preceding fiscal year;

24 (2) NIC's financial statements and the opinion
25 with respect thereto prepared by the independent

1 public accountant reviewing such statements and a
2 copy of any report made on an audit conducted
3 under subsection (a) of this section;

4 (3) a schedule of NIC's obligations and capital
5 securities outstanding at the end of such fiscal year,
6 with a statement of the amounts issued and re-
7 deemed or paid during such fiscal year; and

8 (4) the status of projects receiving funding or
9 other assistance pursuant to this Act, including dis-
10 closure of all entities with a development, ownership,
11 or operational interest in such projects.

12 (c) BOOKS AND RECORDS.—

13 (1) IN GENERAL.—NIC shall maintain adequate
14 books and records to support the financial trans-
15 actions of the Corporation, the Insurance Corpora-
16 tion, and subsidiaries of such corporations.

17 (2) AUDITS BY THE SECRETARY AND GAO.—
18 The books and records of NIC shall be maintained
19 in accordance with recommended accounting prac-
20 tices and shall be open to inspection by the Sec-
21 retary and the Comptroller General of the United
22 States.

1 **SEC. 18. TAX TREATMENT OF DISTRIBUTIONS FROM QUALI-**
 2 **FIED RETIREMENT PLANS INVESTING IN**
 3 **PUBLIC BENEFIT BONDS.**

4 (a) IN GENERAL.—Section 72 of the Internal Rev-
 5 enue Code of 1986 (relating to annuities; certain proceeds
 6 of endowment and life insurance contracts) is amended by
 7 redesignating subsection (w) as subsection (x) and by in-
 8 serting after subsection (v) the following new subsection:

9 “(w) TREATMENT OF DISTRIBUTION FROM QUALI-
 10 FIED RETIREMENT PLANS INVESTING IN PUBLIC BEN-
 11 EFIT BONDS.—

12 “(1) IN GENERAL.—In the case of any qualified
 13 retirement plan which receives directly or indirectly
 14 any interest on any public benefit bond (including
 15 any payments in respect thereof made by a surety
 16 or guarantor) for purposes of applying this section
 17 to any distribution from such plan, the distributee’s
 18 investment in the contract shall be treated as includ-
 19 ing such distributee’s allocable share of such interest
 20 under the terms of the qualified retirement plan,
 21 and any such distribution shall be treated as a dis-
 22 tribution described in subsection (e)(2)(B) in which
 23 the distribution is allocable first to the investment in
 24 the contract attributable to such interest.

25 “(2) TREATMENT OF INSTALLMENTS.—In the
 26 case of a distribution to be made over more than one

1 calendar year, the amount of public benefit bond in-
2 terest to be taken into account with respect to a
3 given calendar year shall be the aggregate amount of
4 such interest allocable to the distributee as of the
5 end of the prior calendar year. With respect to the
6 final calendar year, the amount of public benefit
7 bond interest to be taken into account shall include
8 the amount of such interest received by the plan
9 during such year that is allocable to the plan partici-
10 pant with respect to whom the distribution is made.

11 “(3) PUBLIC BENEFIT BOND.—For purposes of
12 this subsection, the term ‘public benefit bond’ means
13 any obligation issued after the date of the enactment
14 of this subsection if—

15 “(A) 95 percent or more of the net pro-
16 ceeds of such obligation are used in connection
17 with the financing or refinancing of 1 or more
18 infrastructure facilities,

19 “(B) such obligation has received a pub-
20 lished rating, and

21 “(C) the development of such infrastruc-
22 ture facilities have been or will be undertaken
23 by a governmental entity or public-private part-
24 nership,

1 as such terms are defined in section 4 of the Na-
2 tional Infrastructure Development Act of 2004.

3 “(4) CERTIFICATION OF INFRASTRUCTURE FA-
4 CILITIES.—An issuer of an obligation of which 95
5 percent or more of the net proceeds are to be used
6 in connection with the financing or refinancing of 1
7 or more facilities may apply to the National Infra-
8 structure Development Corporation, in accordance
9 with such procedures as such corporation may estab-
10 lish, for certification that any such facility is an in-
11 frastructure facility (as defined in section 4 of the
12 National Infrastructure Development Act of 2004).
13 Certification by the Corporation shall create a pre-
14 sumption of such status, but shall not be binding on
15 the Secretary.

16 “(5) LEGEND REQUIRED.—No obligation shall
17 be a public benefit bond for purposes of this sub-
18 section unless it is designated as intended to be a
19 public benefit bond on the date of issuance and
20 bears a legend to such effect.

21 “(6) QUALIFIED RETIREMENT PLAN.—For pur-
22 poses of this subsection, the term ‘qualified retire-
23 ment plan’ means—

24 “(A) a qualified retirement plan (as de-
25 fined in section 4974(c)), and

1 “(B) an eligible deferred compensation
2 plan (as defined in section 457(b)).

3 “(7) TREATMENT OF DIVIDENDS FROM MUTUAL
4 FUNDS.—

5 “(A) IN GENERAL.—For purposes of this
6 subsection, in the case of any dividend (other
7 than a dividend described in section 854(a)) re-
8 ceived from a regulated investment company
9 which meets the requirements of section 852 for
10 the taxable year in which it paid the dividend—

11 “(i) the entire amount of such divi-
12 dend shall be treated as interest on a pub-
13 lic benefit bond if the aggregate interest on
14 such bonds received by such company dur-
15 ing the taxable year equals or exceeds 75
16 percent of its gross income, or

17 “(ii) if clause (i) does not apply, a
18 portion of such dividend shall be treated as
19 interest on a public benefit bond based on
20 the portion of the company’s gross income
21 which consists of such interest.

22 “(B) NOTICE TO SHAREHOLDERS.—The
23 amount of any distribution by a regulated in-
24 vestment company which may be taken into ac-
25 count as interest on a public benefit bond for

1 purposes of this section shall not exceed the
2 amount so designated by the company in a writ-
3 ten notice to its shareholders mailed not later
4 than 45 days after the close of its taxable year.

5 “(C) GROSS INCOME.—For purposes of
6 this section, the term ‘gross income’ does not
7 include gain from the sale or other disposition
8 of stock or securities.”.

9 (b) EFFECTIVE DATE.—The amendment made this
10 section shall apply to distributions after the date of the
11 enactment of this Act.

12 **SEC. 19. AUTHORIZATIONS.**

13 (a) APPROPRIATIONS AUTHORIZED FOR ESTABLISH-
14 MENT.—There are hereby authorized to be appropriated
15 to the Secretary \$30,000,000 for the purpose of facili-
16 tating the NIC’s initial operations.

17 (b) APPROPRIATIONS AUTHORIZED FOR CONDUCT OF
18 BUSINESS OF NIC.—There are authorized to be appro-
19 priated to the Secretary \$3,000,000,000 for each of the
20 fiscal years 2005 through 2008 to make the capital con-
21 tributions in accordance with section 9(a)(1)(A) for the
22 purpose of carrying out this Act.

23 (c) ESTABLISHMENT OF NIC ACCOUNT.—Before the
24 transition date, the funds appropriated under subsection
25 (b) shall be deposited in an account to be established in

1 the Treasury of the United States to be known as the
2 “National Infrastructure Development Corporation Ac-
3 count”, which shall be available to the Corporation, with-
4 out need for further appropriation and without fiscal year
5 limitation, for carrying out its purposes, functions and
6 powers, including the investment and reinvestment of
7 these funds as permitted in this Act, and which shall not
8 be subject to apportionment under subchapter II of chap-
9 ter 15 of title 31, United States Code. The Secretary of
10 the Treasury, in consultation with the board of directors
11 of the Corporation, shall invest amounts in the account
12 in public debt securities with maturities suitable to the
13 needs of the account and bearing interest at rates deter-
14 mined by the Secretary, taking into consideration current
15 market yields on outstanding marketable obligations of the
16 United States of comparable maturities.

17 **SEC. 20. PROHIBITION ON ADDITIONAL FEDERAL ASSIST-**
18 **ANCE.**

19 Except as otherwise specifically provided by sections
20 13 and 19, NIC shall receive no appropriations, loans, or
21 other financial assistance from the Federal Government.

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